

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KAELI GARNER, DOLORES SHEEHAN,
PAUL SHEEHAN, RICKY BABANI,
MICHAEL BATES, DENNIS CROTEAU, and
JEANNETTE CROTEAU, Individually and on
Behalf of All Others Similarly Situated,
Plaintiffs,

v.

AMAZON.COM, INC., a Delaware
Corporation, and AMAZON.COM SERVICES,
LLC, a Washington Limited Liability
Company,

Defendants.

Case No.: 2:21-cv-00750-RSL

**STIPULATED MOTION FOR THE
FILING OF THE CONSOLIDATED
COMPLAINT AND SETTING SCHEDULE
FOR DEFENDANTS' RESPONSIVE
PLEADING**

STIPULATED MOTION

Plaintiffs Kaeli Garner, Dolores Sheehan, Paul Sheehan, Ricky Babani, Michael Bates, Dennis Croteau, and Jeannette Croteau (collectively, "Plaintiffs"), and Defendants Amazon.com, Inc. and Amazon.com Services, LLC (collectively, "Amazon," or "Defendants," and together with Plaintiffs, the "Parties") jointly move the Court for an Order allowing Plaintiffs leave to file their first amended pleading, a Consolidated Complaint on behalf of plaintiffs in this and other related actions.

In addition to this Action, filed June 7, 2021, the following related actions, filed between

June 10 and July 16, 2020, are also pending in this District:

- *Hoyt v. Amazon.com, Inc., et al.*, No. 2:21-cv-00809, U.S.D.C., W.D. Wash. (Hon. R. Martinez)
- *Mirabile v. Amazon.com, Inc.*, No. 2:21-cv-00854, U.S.D.C., W.D. Wash. (Hon. R. Jones)
- *Lenehan v. Amazon.com, Inc.*, No. 2:21-cv-00868, U.S.D.C., W.D. Wash. (Hon. J. Coughenour)
- *Scott v. Amazon.com, Inc.*, No. 2:21-cv-00883, U.S.D.C., W.D. Wash. (Hon. M. Pechman)
- *Terpening v. Amazon.com, Inc.*, No. 2:21-cv-00977, U.S.D.C., W.D. Wash. (Hon. R. Martinez)
- *Speer v. Amazon.com, Inc.*, No. 2:21-cv-00948, U.S.D.C., W.D. Wash. (Hon. R. Martinez)

Collectively, this Action and the *Hoyt*, *Mirabile*, *Lenehan*, *Scott*, *Terpening*, and *Speer* actions are referred to herein as the “Related Actions.”

The Related Actions similarly allege, on behalf of overlapping alleged classes of plaintiffs, that devices operating Amazon Alexa technology violate the wiretapping or unfair practices laws of the United States, Washington, California, Florida, Maryland, Massachusetts, New Hampshire, and/or Pennsylvania.

Once the Consolidated Complaint is filed, the Consolidated Complaint will govern the claims in the Related Actions on behalf of the alleged class and all plaintiffs in the Related Actions. Each of the actions listed above (*i.e.*, *Hoyt*, *Mirabile*, *Lenehan*, *Scott*, *Terpening*, and *Speer*) would subsequently be dismissed without prejudice, in the interest of judicial and party economy, such that Defendants shall only be required to respond to the Consolidated Complaint.

The undersigned include counsel for the plaintiffs in each of the Related Actions. All plaintiffs in the Related Actions and Defendants have agreed to this Stipulated Motion.

The parties respectfully request that the Court approve the following schedule on the holding of a joint Rule 26(f) Conference, the filing of Plaintiffs’ Consolidated Complaint,

Defendants' filing of a responsive pleading, and the exchange of Rule 26(a) Initial Disclosures, as well as the following items stipulated to:

- Plaintiffs shall file the Consolidated Complaint within 30 days of entry of an Order approving this Stipulated Motion;
- Defendants shall have 45 days thereafter to file an Answer or Motion in response to the Consolidated Complaint;
- If Defendants file a Motion to Dismiss, Plaintiffs shall have 30 days to oppose the motion or file an Amended Consolidated Complaint, and, if Plaintiffs oppose the motion, Defendants shall have 15 days to file a Reply; and
- The Parties shall hold a Rule 26(f) Conference within 14 days after filing of an Answer by Amazon or an Opposition to a Motion to Dismiss by Plaintiffs and exchange Rule 26(a) Initial Disclosures within 14 days after the Rule 26(f) Conference;
- Page limits for any Motion to Dismiss shall be 60 pages, 60 pages for the Opposition to the Motion to Dismiss, and 30 pages for the Reply brief.

Finally, the Parties respectfully request that the Court enter an Order styling this Action as *In re Alexa Data Privacy Consumer Litigation*, No. 21-cv-00854 (W.D. Wash.), and that any future filed cases that assert any federal or state wiretapping act or unfair practices claims relating to voice recording by Amazon's Alexa service shall be consolidated into the Action. Any objection to consolidation of a later-filed case into the Action shall be filed within ten days of the filing of such later-filed case.

This Stipulated Motion does not alter any other deadline or obligation imposed by the Federal Rules of Civil Procedure or the Court's Local Rules.

Dated: July 27, 2021

Respectfully submitted,

By: /s/ Brad J. Moore

Brad J. Moore, WSBA #21802

**STRITMATTER KESSLER KOEHLER
MOORE**

3600 15th Avenue West #300

Seattle, WA 98119
Telephone: (206) 448.1777
Facsimile: (206) 728.2131
Email: brad@stritmatter.com

/s/ Michael P. Canty

Michael P. Canty (admitted *pro hac vice*)
Carol C. Villegas (admitted *pro hac vice*)
LABATON SUCHAROW LLP
140 Broadway
New York, NY 10005
Telephone: (212) 907-0700
Facsimile: (212) 818-0477
Email: mcanty@labaton.com
cvillegas@labaton.com

Bradley S. Keller
BYRNES KELLER CROMWELL LLP
1000 Second Avenue
Seattle, Washington 98104
Telephone: (206) 622-2000
Facsimile: (206) 622-2522
Email: bkeller@byrneskeller.com

Paul J. Geller (*pro hac vice* forthcoming)
Stuart A. Davidson (admitted *pro hac vice*)
Maxwell H. Sawyer (admitted *pro hac vice*)
**ROBBINS GELLER RUDMAN & DOWD
LLP**
120 East Palmetto Park Road, Suite 500
Boca Raton, FL 33432
Telephone: (561) 750-3000
Facsimile: (561) 750-3364
Email: pgeller@rgrdlaw.com
sdavidson@rgrdlaw.com
msawyer@rgrdlaw.com

Samuel H. Rudman (*pro hac vice* forthcoming)
**ROBBINS GELLER RUDMAN & DOWD
LLP**
58 South Service Road, Suite 200
Melville, NY 11747
Telephone: (631) 367-7100
Facsimile: (631) 367-1173
Email: srudman@rgrdlaw.com

Guillaume Buell (admitted *pro hac vice*)
THORNTON LAW FIRM LLP
1 Lincoln Street
Boston, MA 02111
Telephone: (617) 720-1333
Facsimile: (617) 720-2445
Email: gbuell@tenlaw.com

1
2
3 Wright A. Noel
4 **CARSON NOEL PLLC**
5 20 Sixth Avenue NE
6 Issaquah, WA 98027
7 Telephone: (425) 837-4717
8 Facsimile: (425) 837-5396
9 E-Mail: wright@carsonnoel.com

10 L. Timothy Fisher (*pro hac vice* forthcoming)
11 **BURSOR & FISHER, P.A.**
12 1990 N. California Blvd., Suite 940
13 Walnut Creek, CA 94596
14 Telephone: (925) 300-4455
15 Facsimile: (925) 407-2700
16 E-Mail: ltfisher@bursor.com

17 Alec M. Leslie (*pro hac vice* forthcoming)
18 Max S. Roberts (*pro hac vice* forthcoming)
19 **BURSOR & FISHER, P.A.**
20 888 Seventh Avenue, Third Floor
21 New York, NY 10019
22 Telephone: (646) 837-7150
23 Facsimile: (212) 989-9163
24 E-Mail: aleslie@bursor.com
25 mroberts@bursor.com

26 Jason T. Dennett, WSBA #30686
27 Kaleigh N. Powell, WSBA #52684
28 **TOUSLEY BRAIN STEPHENS PLLC**
1700 Seventh Avenue, Suite 2200
Seattle, WA 98101-4416
Telephone: (206) 682-5600
Email: jdennett@tousley.com
kpowell@tousley.com

Caleb Marker (*admitted pro hac vice*)
ZIMMERMAN REED LLP
2381 Rosecrans Avenue, Suite 328
Manhattan Beach, CA 90245
Telephone: (877) 500-8780
caleb.marker@zimmreed.com

Brian C. Gudmundson (*admitted pro hac vice*)
Jason P. Johnston (*admitted pro hac vice*)
Michael J. Laird (*admitted pro hac vice*)
ZIMMERMAN REED LLP
1100 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Telephone: (612) 341-0400
brian.gudmundson@zimmreed.com

jason.johnston@zimmreed.com
michael.laird@zimmreed.com

Manish Borde, WSBA #39503
BORDE LAW PLLC
600 Stewart St., 400
Seattle, WA 98101
Telephone: (206) 905-6129
E-mail: mborde@bordelaw.com

Robert K. Shelquist (admitted *pro hac vice*)
Rebecca A. Peterson (admitted *pro hac vice*)
LOCKRIDGE GRINDAL NAUEN P.L.L.P.
100 Washington Ave. South, Suite 2200
Minneapolis, MN 55401
Telephone: (612) 339-6900
Facsimile: (612) 339-0981
Email: rkshelquist@locklaw.com
rapeterson@locklaw.com

J. Barton Goplerud (*pro hac vice* forthcoming)
Brian O. Marty (*pro hac vice* forthcoming)
Brandon M. Bohlman (*pro hac vice* forthcoming)
SHINDLER, ANDERSON, GOPLERUD & WEESE, P.C.
5015 Grand Ridge Drive, Suite 100
West Des Moines, Iowa 50265
Telephone: (515) 223-4567
Facsimile: (515) 223-8887
Email: goplerud@saglaw.com
marty@saglaw.com
bohlman@saglaw.com

Charles J. LaDuca (*pro hac vice* forthcoming)
Brendan Thompson (*pro hac vice* forthcoming)
CUNEO GILBERT & LADUCA, LLP
4725 Wisconsin Ave. NW, Suite 200
Washington, DC 20016
Telephone: (202) 789-3960
Email: charlesl@cuneolaw.com
brendant@cuneolaw.com

Attorneys for Plaintiffs

Dated: July 27, 2021

Respectfully submitted,

By: s/ Brian D. Buckley
Brian D. Buckley, WSBA No. 26423
FENWICK & WEST LLP
1191 Second Avenue, 10th Floor

Seattle, WA 98101
Telephone: 206.389.4510
Facsimile: 206.389.4511
Email: bbuckley@fenwick.com

Laurence F. Pulgram (admitted *pro hac vice*)
Jedediah Wakefield (admitted *pro hac vice*)
FENWICK & WEST LLP
555 California Street, 12th Floor
San Francisco, CA 94104
Telephone: 415.875.2300
Facsimile: 415. 281.1350
Email: lpulgram@fenwick.com
jwakefield@fenwick.com

Attorneys for Defendants
AMAZON.COM, INC. and
AMAZON.COM SERVICES, LLC

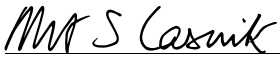
ORDER

Pursuant to the Parties' stipulated motion, it is HEREBY ORDERED that:

1. Plaintiffs shall dismiss without prejudice the other Related Actions upon the entry of this Order.
2. Plaintiffs shall file a Consolidated Complaint in this action within 30 days of entry of this Order.
3. Defendants shall have 45 days thereafter to file an Answer or a motion to dismiss. If Defendants file a motion to dismiss, Plaintiffs shall have 30 days to oppose the motion or file an Amended Consolidated Complaint, and, if Plaintiffs oppose the motion, Defendants shall have 15 days to file a reply.
4. The Parties shall hold a Rule 26(f) Conference within 14 days after filing of an Answer by Amazon or an Opposition to a Motion to Dismiss by Plaintiffs and exchange Rule 26(a) Initial Disclosures within 14 days after the Rule 26(f) Conference.

IT IS HEREBY ORDERED.

Dated this 3rd day of August, 2021.



Robert S. Lasnik
United States District Judge